

STATE OF MISSISSIPPI

OFFICE OF THE STATE AUDITOR

STACEY PICKERING AUDITOR



REPORT FROM THE AUDITOR

MUNICIPAL COURT CLERKS SUMMER CONVENTION

HOLLYWOOD CASINO ~ BAY ST LOUIS, MISSISSIPPI

JUNE 27, 2011

**Presented By:
Ronald Robinson, CPA**

**1-(800)-321-1275
www.osa.state.ms.us**

Post Office Box 956, Jackson, Mississippi 39205

PROGRAM INFORMATION

OBJECTIVES: The objective of this program is to educate participants about their legal responsibilities and personal liability when exercising duties related to expending public funds and managing public property. With emphasis on accounting for and substantiating activities.

HOURS: Presentation time will be approximately 1 hour.

FIELD OF STUDY:
Accounting and Auditing

INSTRUCTOR: The instructor is the primary author of the presented written material.

PROGRAM MATERIAL:
The written material represents requirements of the State Auditor's Office as the agency authorized by state law to prescribe accounting and auditing procedures. All program material is reviewed by the Department of Technical Assistance, State Auditor's Office. See program cover page for telephone number, address, website and additional information.

INSTRUCTIONAL METHOD:
Program will be presented orally and supported by detailed written material to coincide with presentation.

EVALUATION: Through out the program the instructor will recap presented material; and participates will be given opportunity to ask questions, comment and evaluate understanding. Participates may contact the State Auditor's Office (Technical Assistance) to ask additional questions, further comment on, and offer additional evaluate the program.

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I WHERE TO FIND INFORMATION ON THE INTERNET **ABOUT OFFICIAL DUTIES**

LEGISLATIVE BILLS:	http://billstatus.ls.state.ms.us
MISSISSIPPI CODE:	http://www.sos.state.ms.us/pubs/MSCode/
ATTORNEY GENERAL OPINIONS:	http://www.agopin.state.ms.us
ETHICS COMMISSION OPINIONS:	http://www.ethics.state.ms.us/opinion1.htm
DFA TRAVEL REGULATIONS:	http://www.mmrs.state.ms.us/Purchasing/Travel.htm
STATE AUDITOR'S OFFICE:	http://www.osa.state.ms.us
ARCHIVES RECORDS:	http://www.mdah.state.ms.us/locgov/localgov.html
STATE RETIREMENT SYSTEM:	http://www.pers.state.ms.us/
STATE OF MISSISSIPPI:	http://www.state.ms.us/
MISS. STATE PUBLICATIONS	http://msucares.com/community/governmental/

III. SELECTED 2011 LEGISLATION

[First Impressions]

HOW TO TRACK NEW LEGISLATION ON THE INTERNET.

GO TO: <http://billstatus.ls.state.ms.us/>

UNDER "BILL STATUS": SELECT "All Measures (NOT DEAD)"

AT THIS POINT YOU WILL SEE A LIST OF BILLS THAT WILL BECOME LAW.

CITY & COUNTY - DONATIONS TO COURT APPOINTED SPECIAL ADVOCATES

House Bill 193, effective 7/1/11 created a new law for municipalities and revised Section 19-5-93 (t) for counties to authorize them to expend up to an amount equal to ¼ mill each for the support by donation to any chapter of the "Court Appointed Special Advocates.

DOMESTIC VIOLENCE AND GPS WITH BOND

House Bill 196 creates new law effective 7/1/11 to provide conditions for bond that may be imposed upon a defendant. These conditions include Global Position Monitoring Device. The defendant must pay the costs or cover the costs through community service or establishing that he/she is indigent.

DRUG COURT PARTICIPATION DECISION

House Bill 224, effective 7/1/11 revised Section 9-23-15 to provide the Court with jurisdiction has final determination whether a person may participation in drug court.

PENALTY FOR ADULTS ALLOWING MINORS TO DRINK AT RESIDENCE

House Bill 504 & Senate Bill 2597, effective 7/1/11 creates new law and revises Section 67-3-70 to prohibit adults from allowing a party to take place at a private residence or private premises if a minor at the party obtains any alcoholic beverage or beer and the adult knows or reasonably should know that the minor has obtained alcoholic beverages or beer.

Any person who violates this law shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of \$1,000 or imprisonment in the county jail for not more than 90 days or both fine and imprisonment.

PROSECUTORS & PUBLIC DEFENDERS

House Bill 506 amends 97-37-7 effective 7/1/11 to allows all prosecutors and public defenders to carry concealed weapons. The bill also authorizes certain persons who have had firearms training to carry weapons. [See House Bill 881]

CRIME- ONLINE IMPERSONATION

House Bill 552, effective 7/1/11 created the offense of online impersonation. Any person who knowingly and without consent impersonates another actual person or on an internet website or by other electronic means for purposes of harming, intimidating, threatening or defrauding another person is guilty of a misdemeanor. Violation is punishable by a fine of not less than \$250 and not exceeding \$1,000 or by imprisonment for not less than 10 days and not more than 1 year, or both.

CRIME-KIDNAP VULNERABLE PERSON

House Bill 561, effective 7/1/11 amended Section 97-3-53 (the kidnapping statute) to include vulnerable person as defined in Section 43-47-5. **House Bill 562** makes the third offense against a vulnerable person a felony.

DRIVER'S LICENSE

House Bill 606, effective October 1, 2011 amends 63-1-47 to allow (optional) an applicant to purchase an 8 year license rather than a 4 year license.

This bill also amends 63-1-5 to conform the punishment for driving without a driver's licenses to the same punishment as for driving with a suspended driver's license.

May be fined \$ 200 to \$ 500 or/and two days to six month in jail.

CITY & COUNTY COURTS – UNIFORM ASSESSMENT INCREASE

House Bill 708, **effective 7/2/11** revised Section 99-19-73 to increase state assessments on certain criminal convictions. This is an increase in funding for the state's Vulnerable Persons Fund (\$1.00, \$ 1.50 for GF) and Cyber Crime Unit Fund (\$1.50). [Detailed procedures for this change will be placed on the State Auditor's web site for municipal courts and justice courts after programs are presented to court clerks over the coming months.]

[Senate Bill 2734 changed the repeal date from 7/1/11 to 7/1/14.]

STATE UNIFORM ASSESSMENTS:

Traffic Violations	(Code TV)	- increased from	\$ 77.50 to \$ 80.00
Implied Consent Violations	(Code IC)	- increased from	\$ 232.50 to \$ 235.00
Game and Fish Violations	(Code GF)	- increased from	\$ 77.00 to \$ 80.00
Other Misdemeanors Violations	(Code OM)	- increased from	\$ 95.00 to \$ 97.50
Other Felonies Violations	(Code OF)	- increased from	\$ 269.50 to \$ 272.00
Railroad Crossing Violations	(Code RCV)	- no change in amount due	

for violation . Additional railroad related statutes were added to the list of violations that require collection of the \$ 25.00 state assessment. Now includes Sections 37-41-55, 63-3-1007, 63-3-1009, 63-3-1011, 63-3-1013, and 77-9-249.

CITY & COUNTY – TRADEMARK VIOLATION FORFEITURES

House Bill 784, effective 7/1/11 created new laws and revised laws to provide for seizure and forfeiture procedures of property used or derived from violation of trademark laws.

COUNTY COURTS - JUDGMENT RENEWALS

House Bill 810, effective 7/1/11 revised Section 15-1-43 to provide a judgment or decree may only be renewed if the existing judgment has not expired. The notice of renewal must also certify the judgment remains valid and has not been satisfied or barred.

CITY & COUNTY – RESPONSIBILITY FOR CEMETARYS

House Bill 822, effective 7/1/11 revised Section 21-43-38 to require the city or county to appoint a cemetery maintenance committee to oversee any perpetual care cemetery declared by the court to be in receivership. The committee may raise money from private sources for the care of the cemetery.

STATE DEPT. PUBLIC SAFETY

House Bill 847, effective 3/30/11 revised Sections 63-1-21, 35, 37 & 47 to revise driver's license fees and procedures; including authority to pay with credit/debit cards.

PERS

House Bill 859 revised 25-11-115 and to allow a retiree whose marriage status has changed to change his/her retirement allowance option. (Eliminate reduced beneficial and receive full benefit or vice-versa.)

CORONERS, PROSECUTORS AND PUBLIC DEFENDERS – CARRY GUNS

House Bill 881, effective 7/1/11 creates new laws and revised Section 97-37-7 to authorize “all prosecutors”, coroners and public defenders to carry guns. Training is required.

Authority to purchase gun from county, etc. is authorized upon PERS retirement.

Special provision subject to DPS rules for licensed persons to be trained to carrying a gun in a courthouse and specified places.

SCHOOLS – EXTREME WEATHER CLOSURE AUTHORITY AND STATE SUPPORT

House Bill 1156, effective 2/24/11 created new law and revised laws to allow school calendars to be altered and school closures when resulting from weather conditions (State Board of Education approved - states of emergency). State support during this time is limited to ten days.

CITY & COUNTY – GOLD BUYING BUSINESSES

House Bill 1195, effective 7/1/11 creates new law to define and require persons (dealers defined) operating a precious item (gold, stones, etc.) purchasing business (permanent building for a year or more) to acquire a “Local Privilege License” (Sec. 27-17-9). A copy of the privilege license must be forwarded to the local law enforcement agency.

VEHICLE TOWING

House Bill 1216, effective 7/1/2011

creates a new law providing a vehicle may not be towed except when authorized by the owner, lien holder, owner of the property upon which the vehicle is located, or the towing is authorized by other local, state or federal law.

Laws were also created, repealed, and Sec. 63-21-39 revised to establish procedures for scrap metal dealers purchasing vehicles (taking affidavits and titles for filing with Dept. of Revenue).

TAX COLLECTORS MAY EMPLOY DEPUTY SHERIFF

House Bill 1330, effective 7/1/11 amends 27-41-103 to allow the tax collector or deputy tax collector to employ (use) an off-duty deputy sheriff, certified by the Board of Law Enforcement Officer Standards and Training, to assist in seizing personal property delinquent on taxes. The sheriff must agree in writing and the board of supervisors must approve the agreement between the tax collector and sheriff. [Sec. 27-41-5 extends chapter 41 procedures to municipalities.]

STATE, CITY, & COUNTY – UNIFORM TRAFFIC TICKETS

House Bill 1355, effective 7/1/11 amends Section 63-9-21 to transfer regulatory authority from State Auditor to Department of Public Safety. [State Auditor's interest expired in 1984 when the Justice Court Clerk System was created; eliminating judges collecting money.]

SEX OFFENDER REGISTRATION PROCEDURES AND NOTICES

SB 2032, effective 7/1/11 establishes registration procedures, provisions for courts giving notice to DPS of certain convictions (Sec. 45-33-39), requirements for notice if offender is in schools, shelters, etc., and other procedures.

CITY & COUNTY – COURT ASSESSMENT TO RECOVER MISS. BUREAU OF NARCOTICS INVESTIGATIVE COSTS

Senate Bill 2050, effective 7/1/11 revised Section 99-19-77 to add the Miss. Bureau of Narcotics (MBN) to the list of law enforcement agencies whose costs of investigation may be assessed against a defendant. [Previous list included the Attorney General, District Attorney, Sheriff, Miss. Bureau of Investigation, and Municipal Police Departments.]

Also new, these assessment collections must be used to support law enforcement agencies, not to supplant its existing budget. This means a separate budget for the this money in the police department; and the board council cannot reduce an item in the regular budget and take its place in the special budget.

COUNCIL MANAGER MAY ENGAGE IN OUTSIDE WORK

Senate Bill 2164, effective 3/23/11 revised Section 21-9-25 to allow managers in council-manager forms of municipal government to engage in outside work that is not in conflict with his/her duties, and with notice to the council.

TIMBER LOADS LIGHTS REQUIRED

Senate Bill 2192, effective 7/1/11 amended 63-7-47 to require lights on truck bed or trailer loads extending > 4 feet off bed or trailer. This requirement starts ½ hour before sunset and extends to ½ hour after sunrise. Violation is a misdemeanor under Sec. 63-9-11 penalties.

ATV TRAINING

Senate Bill 2196, effective 7/1/11 creates new laws related to all-terrain vehicles (ATVs) –

Driver’s license or a training certificate will be required if an ATV is operated on public property. If under age 16 a crash helmet will be required if operating on public property.

All-terrain vehicle safety courses shall be held by the Cooperative Extension Service. The Department of Public Safety may approve organizations to conduct all-terrain vehicle safety courses and certificates issued upon completion.

The fine for violation and conviction will be \$ 25 to \$ 50.

OPEN MEETINGS AND RECORDS

Senate Bill 2289, effective 7/1/11:

- (1) Revised Section 25-41-15 to allow the Ethics Commission to impose a civil fine upon any member(s) of a public body a fine of \$ 500 (first offense) and \$ 1000 (second or subsequent offense) plus costs for violating open meeting laws.
- (2) Revised Section 25-61-15 to allow a \$ 100 fine plus costs upon any person denying a person access to a public record.

PURCHASE LAWS – BAD CONTRACTOR LIST, NO REVERSE AUCTION CONSTRUCTION, LANDMARK PREQUALIFIED BIDDERS

Senate Bill 2368, effective 7/1/11 revised Section 31-11-3 to authorize the Dept. of Finance and Administration to maintain a list of suspended or disbarred contractors. Section 31-7-13 (c)(i)(2) was revised to prohibit the use of reverse auctions for construction contracts. Section 31-7-13 (d)(iv) was revised to provide for prequalified bidders on landmarks designated by the Dept. of Archives and History.

DETENTION CENTER’S NOTIFICATION OF SCHOOLS & SCHOOL REIMBURSEMENTS WHEN STUDENTS ARE DETAINED

Senate Bill 2388, effective 7/1/11 revised Section 43-21-321 to require detention centers to notify a student’s school if the student will be detained for one or more school days “during the school year”. The bill also allows the Department of Education to adopt policies for School reimbursement of detention costs.

PERS – CHANCERY & CIRCUIT CLERK CONTRIBUTION PROCEDURES

Senate Bill 2437, effective 7/1/11 creates a new Section 25-11-106.1 to require chancery and circuit clerks in office 1/1/11 to pay the employee contribution of their earnings from the county; and the employer and employee contributions for earnings from fees. The county BOS may (each term) authorize the county to pay the employer contribution on the fees.

The clerks must annually file a report to PERS of earning records and make complete payment of required contributions. Failure of a clerk to pay PERS could result in their payments from the county being diverted to PERS or losing credit in the retirement system.

S.B. 2439 PERS – Change benefits if employed after 7/1/11

CRIME-PASSING SCHOOL BUS

Senate Bill 2472, effective 7/1/11 (“Nathan’s Law”), revised various sections of the law to enhance the crime of passing a stopped school bus.

First conviction shall be fined not less than \$350 nor more than \$750, or imprisoned for not more than 1 year or both. Also, a violator can be charged with aggravated assault if a child is injured.

Section 63-1-73 was revised to limit the use of wireless equipment if driving under an intermediate license, a temporary learning permit or a temporary driving permit (can’t text and drive). Violation and conviction allows a fine up to \$ 500; and if involved in an accident, the officer shall indicate a wireless device was in use, which will allow a fine of up to \$ 1000.

ELECTIONS

Senate Bill 2496, effective when approved under the voting rights act –
The officials in charge of the election of each county or municipality shall utilize at least 75% of all the voting machines available to the county or municipality. If paper ballots, shall print a number that is equal to not less than 75% of the registered voters eligible to vote.

S. B. 2597 Crime – Adult allowing minor to drink at residence (same as H. B. 504)

LEGAL HOLIDAYS

Senate Bill 2659 changed 3-3-7; Same 10 legal holiday as before however 3-3-7(2) now includes Veterans Day as a day you cannot substitute for Mardi Gras Day.

2615 Crime – Injury or death of fetus

2708 Court Reporters – Certification Requirements, Definition & Penalty

2734 UNIFORM ASSESSMENTS effective 7/1/11 –

Deleted repeal date of 7/1/11 with no change to the assessment amounts.

House Bill 708 is effective 7/2/11 to increase assessments, so it will be the new law.

GRADING MUNICIPALITIES AND FIRE DISTRICTS

Senate Bill 2742 amended 83-3-24. The Rating Bureau is required to formalize standards for awarding credits to fire departments.

COURTS – BAIL BOND PROCEDURES

Senate Bill 2806, effective 7/1/11:

Section 99-5-25 was revised to extend the time a surety may recover a forfeited bond from 12 months to 18 months;

Section 83-39-25 was revised to clarify bondsman fees for court approved electronic monitoring or drug testing are not considered part of a bondsman's premium, commission or fees (limited).

Section 83-39-27 was revised to prohibit a bondsman from paying a fee (etc.) to a person who is not an agent.

Section 21-23-8 (city court) was revised to conform bond procedures for municipal courts to be similar to county courts; and to clarify that bonds are forfeited to the municipality.

Other statutes were changed for office location (in state) and training purposes.

CRIME – ILLEGAL DRUGS

Senate Bill 2810 defines new drugs and precursors-Technical changes to more closely conform to the federal controlled substance schedules.

CRIME – ANIMAL ABUSE

Senate Bill 2821 effective 4/26/11-"Mississippi Dog and Cat Pet Protection Law of 2011"-This bill revised several statutes to clarify Animal abuse violations and establish more specific penalties.

CRIME – RAILROAD CROSSING STOPS

Senate Bill 2988, effective 7/1/11 revised Sections 63-3-1011- Railroad crossing; must stop for any vehicles on rail (not just trains). Sec. 37-41-55 also requires school transportation vehicles to stop between 50 feet and 15 feet of the railroad.

III. STATE ASSESSMENT AND FINE PROCEDURES EFFECTIVE JULY 2, 2011 -

1. STATE ASSESSMENTS IN CRIMINAL CASES

A. STATE UNIFORM ASSESSMENTS

1. **Purpose:** These collections are sent to the state to fund various programs, such as mandatory training of court personnel.
2. **When Due:** These collections are due only when the court imposes a monetary penalty or any other penalty on any of the following types of convictions, **including ordinances**. (*not charged if no penalty is imposed, such as with an ordinance warning for a curfew, leash, etc. violation*)
3. **Types of Violations:**

(a) TRAFFIC VIOLATIONS SEC. 99-19-73 (1)

- (1) Includes: Any violation in Title 63, Miss. Code
- (2) Excludes: Parking or Registration offenses; and
Sec. 63-11-1 et seq. Implied Consent Violations
- H. B. 708** (3) Amount: **Eighty Dollars** **\$ 80.00**
- Was \$ 77.50** (4) DFA Settlement Code: ***T V***

(b) IMPLIED CONSENT LAW VIOLATIONS SEC. 99-19-73 (2)

- (1) Includes: Any violation in Title 63-11-1 et seq.
- H. B. 708** (2) Amount: **Two Hundred Thirty Five Dollars** **\$ 235.00**
- Was \$ 232.50** (3) DFA Settlement Code: ***I C***

(c) GAME AND FISH LAW VIOLATIONS SEC.99-19-73 (3)

- (1) Includes: Violation of the game and fish laws or regulations
- H. B. 708** (2) Amount: **Eighty Dollars** **\$ 80.00**
- Was \$ 77.00** (3) DFA Settlement Code: ***G F***

- (d) **LITTER LAW VIOLATIONS** SEC. 99-19-73 (4)
- (1) Includes: Any violation of Section 97-15-29
 - (2) Excludes: Any violation not under this section
 - (3) Amount: Twenty Five Dollars **\$ 25.00**
The \$ 50.00 ALA assessment must also be collected.
The "Other Misdemeanor" assessment is also collected.
 - (4) DFA Settlement Code: **SL**

- (e) **TRAUMA TRAFFIC VIOLATIONS** SEC. 99-19-73 (5)
- (1) **Includes:** Any speeding law
Sec. 63-3-1201 reckless driving
Sec. 63-3-1213 careless driving
 - (2) **Excludes:** Speeding less than 10 MPH
 - (3) **Amount:** Speeding:
Less than 10 MPH Zero
10 MPH to 20 MPH Ten Dollars \$ 10.00
20 MPH to 30 MPH Twenty Dollars \$ 20.00
30 MPH or more Thirty Dollars \$ 30.00
Reckless Driving Ten Dollars \$ 10.00
Careless Driving Ten Dollars \$ 10.00
 - (4) **Settlement Code:** **TT**

- (f) **OTHER MISDEMEANORS** SEC. 99-19-73 (5)
- (1) Includes: All misdemeanor violations unless excluded
- includes ordinance violations
- (Litter Violation is included)
- tag violations A. G. 4/19/02
 - (2) Excludes: (1) Traffic Violations see (a) above
(2) Implied Consent Violations see (b) above
(3) Game and Fish Law Violations see (c) above
(5) Trauma Traffic Violations see see (e) above
(6) Vehicular Parking and Registration
 - (3) Amount: **Ninety Seven Dollars and Fifty Cents \$ 97.50**
 - (4) DFA Settlement Code: **OM**

H. B. 708
Was \$ 95.00

- (g) **OTHER FELONIES** SEC. 99-19-73 (6)
- (1) Includes: All felony violations
 - (2) Excludes: Same as Other Misdemeanors
 - (3) **Amount:** **Two Hundred Seventy Two Dollars \$ 272.00**
 - (4) DFA Settlement Code: **OF**

H. G. 708
was \$ 269.50

B. STATE COURT CONSTITUENTS ASSESSMENT SEC. 37-26-9 (4)

- 1. Purpose:** A state assessment to assist funding of court education
- 2. Imposed When:** *A criminal conviction* and a fine of \$ 10.00 or more is imposed
- 3. Amount Due:** **Fifty Cents \$.50**
- 4. DFA Settlement Code:** **CC**

C. CHILDREN'S TRUST FUND ASSESSMENT SEC. 99-19-75

- 1. Purpose:** To fund child abuse prevention programs.
- 2. Imposed When:** A defendant is convicted of a violation of Section 97-3-65, 97-3-65 et seq. or 97-3-7 against a minor; and a fine or other penalty is imposed.
- 3. Amount Due:** **One Thousand Dollars \$ 1000.00**
- 4. DFA Settlement Code:** **CTF**

H. B. 708

D. RAILROAD CROSSING VIOLATION ASSESSMENT Sec. 99-19-73 (8) (a)

- 1. Purpose:** To fund the Operation Lifesaver Fund to Increase safety at railroad crossings.
- 2. Imposed When:** A defendant is convicted of a violation of Sec. 77-9-249, **37-41-55, 63-3-1007, 63-3-1011, or 63-3-1013** and a fine or other penalty is imposed.
- 3. Amount Due:** **Twenty Five Dollars \$ 25.00**
- 4. DFA Settlement Code:** **RCV**

E. DRUG VIOLATION ASSESSMENT Sec. 99-19-73 (8) (b)

- 1. Purpose:** To fund the Drug Evidence Disposition Fund to cover costs to MBN for acquisition, storage, destruction, etc. of evidence related to the Uniform Controlled Substances Act.
- 2. Imposed When:** A defendant is convicted of a violation of Section 41-29-139
- 3. Amount Due:** **Twenty Five Dollars \$ 25.00**
- 4. DFA Settlement Code:** **DV**

F. ADDITIONAL LITTERING ASSESSMENT SEC. 97-15-29

1. **Purpose:** To fund Law Enforcement Officers Monument Fund and deceased officer's children's fund.
2. **Imposed When:** A defendant is convicted of a violation of Sec. 97-15-29.
3. **Amount Due:** **Fifty Dollars** **\$ 50.00**
(This is collected in addition to the Sec. 99-19-73 State Uniform Assessments under codes OM and SL)
4. **DFA Settlement Code:** **ALA**

G. STATE APPEARANCE BOND FEE ASSESSMENT SEC. 83-39-31

1. **Purpose:** This assessment is sent to the state general fund
2. **Imposed When:** **[ON ALL CHARGES]**
 - (a) The defendant posted a bond conditioned upon appearance at trial.
[Bonds Include: cash bail bond, surety bail bond (from a bondsman, etc.), Property bail bond, or a guaranteed arrest bond certificate]
 - (b) The defendant was released on his recognizance, driver's license deposit, or written promise to appear; and was required to appear at trial.
 - (c) The defendant was released on an appeal bond, with appearance required.
3. **Not Imposed When:**
 - (a) No bond was posted, defendant was held in jail until trial
 - (b) After conviction, but special circumstances apply
 - (1) Traffic violation prepaid - Sec. 99-19-3
 - (2) Felony preliminary hearing, etc.- Not A Trial
 - (3) Multiple case - One Fee Per Bond
4. **When Collected:**
 - (a) **After conviction** when a surety bail bond, property bond or guaranteed arrest bond certificate is posted with the court clerk.
 - (b) **After conviction** when any type of bond is taken by someone other than the court clerk, such as the sheriff or other police officer.
 - (c) **In advance**, when **Cash Bond** is taken.
(Includes police officers taking cash bonds, A. G. 3-29-02.)
5. **Amount:** Greater of 2 % of bond or Twenty Dollars **\$ 20.00**
6. **DFA Settlement Code:** **A B F**

H. STATE VICTIMS BOND FEE ASSESSMENT SEC. 83-39-31 (7)

1. Purpose: This assessment is sent to the state's "Victims of Domestic Violence Fund".

2. Imposed When: [ON ALL CHARGES]

The defendant posted a bond conditioned upon appearance at trial.
[Bonds Include: cash bail bond, surety bail bond (from a bondsman, etc.), property bail bond, or a guaranteed arrest bond certificate]

3. Not Imposed When:

- (a) No bond was posted, defendant was held in jail until trial
- (b) **The defendant was released on his own recognizance, deposited his driver's license in lieu of bail, or was released after arrest on a written promise to appear, and was required to appear at trial.**
- (c) **The defendant was released on an appeal bond, that was conditioned for appearance.**
- (d) Special circumstances apply
 - (1) Traffic violation prepaid - Sec. 99-19-3
 - (2) Felony preliminary hearing, etc.- Not A Trial
 - (3) Multiple case - One Fee Per Bond

4. When Collected:

After Conviction when a surety bail bond, property bail bond or guaranteed arrest bond certificate is posted with the court clerk.
[No provision to collect cash bonds in advance]

5. Amount: Ten Dollars \$ 10.00

6. Settlement Code: V B F

I. STATE GAME AND FISH LICENSE ASSESSMENT SEC. 49-7-21 (6)

- 1. Purpose:** A state assessment to assist funding of the Department of Wildlife, Fisheries and Parks.
- 2. Imposed When:** A defendant is convicted of hunting, fishing, etc. without the required state license under Sec. 49-7-21 (3).
- 3. Amount Due:** The amount the license would have costs. To be noted on the ticket or citation by the charging officer. The officer may obtain the amount by contacting the local Field Office of the Department of Wildlife, Fisheries, & Parks. (Dist. 1 Tupelo (662) 840-5172, Dist. 2 Batesville (662) 563-6330, Dist. 3 Stoneville (601) 686-3520, Dist 4 (601) Meridian 692-2776, Dist. 5 Brookhaven (601) 835-3050, Dist. 6 Hattiesburg (601) 545-5632, Marine Biloxi (228) 435-1332, Metro Jackson 364-2235)
- 4. DFA Settlement Code:** *H V*

J. ADULT DRIVERS TRAINING SEC. 63-9-11

- 1. Purpose:** A fee to off set the cost for the Department of Public Safety to maintain a non-public record of persons who are eligible for the program.
- 2. Imposed When:** A defendant qualifies and elects to proceed with the adult drivers training option in lieu of a conviction record.
- 3. Amount due:** **Ten Dollars** **\$ 10.00**
- 4. Settlement:** Collections must be settled by the City Clerk to the Department of Finance and Administration (DFA).
- 5. DFA Settlement Code:** **ADT**

K. STATE CRIMINAL JUSTICE FUND ASSESSMENT SEC. 97-19-67 (4)

- 1. Purpose:** A state assessment to assist funding of the criminal justice system
- 2. Imposed When:** A criminal conviction for writing a bad check results from a complaint filed by the “District Attorney’s Bad Check Unit” as provided by Sec. 97-19-79.
- 3. Amount Due:** Up to 85 % of the face value of the bad check
- 4. Settlement Code:** *C J F*
- 5. Other Charges:** Sec. 97-19-79 allows the district attorney’s \$ 40.00 service charge to be added to court cost.

L. OTHER EXCEPTIONS

- 1. SEATBELT CONVICTIONS:** State assessments are not collected for seatbelt convictions under Sec. 63-2-7. However, local assessments are collected (see A. G. opinion addressed to Donny Joe Sparks, dated August 15, 2008).
[A seatbelt violation is not the same thing as a child restraint violation. Assessments are collected for child restraint violations under Sec. 63-7-301.]
- 2. DEFENSIVE DRIVING:** No assessments should be charged on a minor’s defensive driving option in lieu of conviction under Sec. 63-1-55. However, fine, cost and assessments are charged for **adult defensive driving** in lieu of conviction under Sec. 63-9-11.

2. STATE ASSESSMENTS IN CIVIL CASES

It is unlikely that a civil case will arise in municipal court. In the event of a civil case the following assessments must be charged.

- A. STATE COURT EDUCATION ASSESSMENT** SEC. 37-26-3
1. **Purpose:** A state assessment to fund court education
 2. **Imposed When:** Any time a civil case is filed
 3. **Amount Due:** On each case filed - Two Dollars **\$ 2.00**
 4. **DFA Settlement Code:** *S C E F*
- B. STATE COURT CONSTITUENTS ASSESSMENT** SEC. 37-26-9 (4)
1. **Purpose:** A state assessment to assist funding of court education
 2. **Imposed When:** Any time a civil case is filed
 3. **Amount Due:** On each case filed - Fifty Cents **\$.50**
 4. **DFA Settlement Code:** *C C*

3. LOCAL AND OTHER ASSESSMENTS

- A. COUNTY LAW LIBRARY ASSESSMENT** (optional) SEC. 19-7-31
1. **Purpose:** To fund the county law library
 2. **Imposed When:** The municipal board *may* impose this assessment to assist the cost of operating the county law library.
 3. **Amount Due:** Up to **\$ 1.50** for each case where convicted
 4. **County Settlement:** Settle to the Chancery Clerk

B. LOCAL CITATION ASSESSMENT

Sec. 63-9-31

1. **Purpose:** An assessment to assist funding of wireless radio communications
2. **Imposed When:** The Municipal Board may impose this assessment on criminal convictions resulting from citations issued by the police officers of the municipality.
3. **Amount Due: Up To \$ 10.00**
4. **DPS Settlement:** Collections must be settled to the Municipal Clerk for deposit with the Department of Public Safety's Office of Public Safety Planning (DPS).

C. CRIME STOPPERS ASSESSMENT (optional) SEC. 45-39-17

1. **Purpose:** To fund local crime stopper programs
2. **Imposed When:** The Municipal Board (by ordinance) may impose this assessment to fund local crime stopper programs.
3. **Exceptions:** Not imposed on parking and registration convictions.
4. **Amount Due:** Up to \$ **2.00** for each criminal conviction
5. **DPS Settlement:** Settled to the Municipal Clerk for deposit with the Department of Public Safety's Office of Public Safety Planning (DPS).

4. STATE IMPOSED FINES

COMPULSORY MOTOR VEHICLE LIABILITY INSURANCE FINE

- A. Imposed By:** Section 63-15-4
- B. Imposed when:** A person is convicted of operating a motor vehicle without an insurance card.
- C. Amount Due**
 - 1. \$ 500.00 if no insurance is obtained by court or payment date.
 - 2. \$ 100.00 if insurance is obtained by court or payment date.
 - 3. Judge may suspend any portion of the fine.
(See A. G. Opinion Robert W. Lawrence - 2/9/01)
- D. Settlement Requirement:**
 - 1. **State Share:** One Half (50 %) of the fine collected must be settled to the state.
 - 2. **Municipal Share:** One Half (50 %) of the fine collected must be settled to the municipality. The money is settled as with other general fine collections, to the General Fund of the municipality
- E. DFA Settlement Code:** MVL

[**Note:** Care should be taken to report to the Department of Public Safety on the **UP Commissioner's Copy of the Traffic Ticket** all cases where the defendant does not show "proof of insurance". Section 63-15-4 (4) requires suspension of the drivers license for one year or until the owner of the vehicle shows proof of liability insurance.]

4. REGULATIONS GOVERNING ASSESSMENTS
(Formal Regulations: Rule 4.700: Title 4, effective June 30, 2005)

A. APPLYING ASSESSMENTS – Assessments are determined as of the date of the court judgment. There is no authority to suspend assessments

B. COLLECTION OF ASSESSMENTS

1. Who Collects: The municipal court clerk Sec. 21-23-11

2. How Collected:

(a) Cash

(b) Check received from a Miss. resident paying a Title 63 Ch. 3, 5, or 7 traffic violation must be accepted (required by Sec. 63-9-12). The court clerk is not responsible for a bad check, if a reasonable collection effort is made (such as suspending the driver's license).

(c) Other check, money order, etc.

(1) The court clerk is responsible for bad collections, accepted at personal risk. (It is suggested that you do not deliver the receipt or credit the person's account until the check, etc. clears)

(2) If a bad check is received, Sec. 97-19-57 explains the procedure for notification to the defendant that a check has been dishonored. This procedure is to establish intent to write a bad check and authorize a \$40,00 service charge.

(d) Working assessments off may be authorized by the court (A.G. Priscilla Daniel 10/3/90). Sec. 47-1-47 & Sec. 99-19-20 authorizes amount of the credit. The municipality does not reimburse the state for the loss.

C. ACCOUNTING FOR ASSESSMENTS

1. Receipts - must be written to show the type assessments collected.

2. Settlement Reports - must be made (daily) to the municipal clerk, when there is a separate court clerk. This report must provide all necessary information for the municipal clerk's further accounting and further settling (Sec. 21-15-21).

3. Account Funds - *clearing funds* must be maintained by municipal clerks to account for and to hold state and county assessments. Special municipal assessments are accounted for in municipal *special revenue funds*.

4. Accounting Records - must be prepared by the court clerk and municipal clerk as appropriate and required by the “*Municipal Audit and Accounting Guide*” regulations (find at website: <http://www.osa.state.ms.us/downloads.htm>). These include receipts, journals, and ledgers.

5. Settlement Codes and Descriptions - must be used to account for assessments.

DFA Settlement Codes: The court clerk must determine and provide the settlement codes to the municipal clerk for settlements to be made to the State Department of Finance (DFA), these codes are listed on settlement forms provided to the municipal clerk by DFA.

DPS Settlement Descriptions: The court clerk must also determine and provide the description codes to the municipal clerk for settlements to be made to the State Department of Public Safety (DPS), these description codes are listed on settlement forms provided to the municipal clerks by DPS.

Old Law Assessments Codes (cases prior to 10/1/90): must be reclassified by type of violation, and accounted for using the proper settlement code.

Code Training: These codes and descriptions are also included in Judicial College training materials presented to court clerks.

D. SETTLEMENT OF ASSESSMENTS

1. **Daily Settlements:** The court clerk must immediately settle all collections to the municipal treasury (Sec. 21-15-21). Generally, this means daily.

2. **Monthly Settlements:**

Routine Collections: The municipal clerk must settle court *assessments* to the state and county monthly (a board claim or approval order is not required and should not delay settlement).

Other Collections: Collections pending determination should be held until resolutions. For example, pre-paid appearance bond fees should be held until the court guilty/innocent decision or the prosecutor determines if a refund is due.

3. **Settlement Forms:** State issued settlement forms must be used by the municipal clerk for settlements to the state.

DFA Form: This form will be prescribed by the Dept. of Finance and Administration for settlement of assessments such as uniform assessments. This form will be updated as changes and new settlement codes are required.

DPS Form: This form will be prescribed by the Dept. of Public Safety's Office of Public Safety Planning for settlement of certain special assessments it accounts for and returns to the municipality, such as local citation and crime stopper assessments.

Preparation of Forms: These are "fill in the blank" forms that include instructions for mailing and making contact for assistance. If a settlement cannot be neatly and completely made on the form (without change), contact should be made as instructed (something is wrong).

**E. REFUND OF STATE ASSESSMENTS
[AND OTHER COURT RELATED PAYMENTS TO THE STATE]**

1. **Who Authorizes Refunds:** The Court Clerks must authorize a refund when any of the following conditions occur.
 - (a) Over payments have been made due to **collection error**,
 - (b) **court order** directs,
 - (c) convictions have been **overturned upon appeal**,
 - (d) or in the case of an advance **appearance bond fee** payment, when the prosecutor enters a **nolle prosequi or retires the case to the file**.
2. **Who Must Make Refunds:** The Municipal Clerk must make the refund when legally authorized by the Court Clerk.
3. **How Refunds Are Authorized:**The Court Clerk must authorize all refunds by following the "**certificates of eligibility**" procedure.
4. **Certificate of Eligibility Procedure:** This procedure involves the Court Clerk preparing, distributing and accounting for a form as prescribed and regulated by the State Auditor (Sec. 99-19-73 & 83-39-31).
 - (a) The "**Certificates of Eligibility**" **form** is a mandatory document. This form is issued by the Court Clerk to the person to be refunded and the Municipal Clerk.
 - (b) The Certificate of Eligibility form must contain the specific information. The form must be written, signed and include the date, case number, payee, amount due and reason for the refund. Written and signed may be electronic when appropriate (Sec. 75-12-13).
 - (c) Copies of all issued certificates of eligibility must be maintained as a record by the Court Clerk; and the Municipal Clerk when a refund is made.

F. REFUNDS OF OTHER COLLECTIONS [NOT STATE RELATED]

The "Certificate of Eligibility" procedure may also be used to support claims presented to the municipality for other (over or refundable) payments made to municipal funds (claims docket, Sec. 21-39-5 & 21-39-7). This means claims filed with the Municipal Clerk for court collections that were settled into municipal funds; such as fines, court costs, bond forfeitures, local assessments, etc.. Such claims may be filed by a person making the claim or the court clerk on their behalf.

G. SOURCES OF REFUNDS:

Refunds must be made from the funds and accounts the originally collected money was settled into. For example, an overpayment of a State Uniform Assessment Traffic Violation (TV) collection would be refunded from the TV collection currently held in the “State Assessment Clearing Fund”.

If assessment money has already been settled to the state (or county), refunds are made from later similar collections as it is deposited into the fund.

The Municipal Clerk must reduce the settlement to the state by the amount of refunds made. The state settlement form list net settlements; it is not necessary to show refunds.

If the amount of a refund is too large to recover from similar funds on hand; the municipal clerk should contact the Department of Finance and Administration for procedures.

Refunds from municipal funds (General Fund, etc.) are not limited to the type of revenue (fine, court costs, bond forfeiture, etc.) collected.

H. MUNICIPAL BOARD ORDERS FOR REFUNDS:

Municipal Board's Orders are not required for refunds of state or county assessments (money held in clearing funds). A board order is required to authorize refunds of court cost, fines or special municipal assessments (money held in budgeted municipal funds).

COURT ASSESSMENT/FINE SETTLEMENT FORM

Submit to Department of Finance and Administration

COUNTY **OR** MUNICIPALITY OF: _____
 FOR THE MONTH & YEAR OF: _____

ASSESSMENT /FINE CODES	CITY COURT	CIRCUIT/ COUNTY COURT	JUSTICE COURT	CHANCERY COURT	TOTAL	ASSESSMENT /FINE CODES
SCEF						SCEF
TV						TV
IC						IC
GF						GF
SL						SL
TT						TT
OM						OM
OF						OF
ABF						ABF
VBF						VBF
DVF						DVF
CJF						CJF
CC						CC
DA						DA
HV						HV
MVL						MVL
ADT						ADT
CTF						CTF
CEC						CEC
CLA						CLA
ALA						ALA
POF						POF
RCV						RCV
DV						DV
EXP						EXP
TOTAL						

REPORT SUBMITTED BY: _____
 DATE OF REPORT: _____
 TELEPHONE NUMBER: _____

An Explanation and the Assessment and Fine Codes are defined on the back of this form.

EXPLANATION OF STATE ASSESSMENT/FINE FORM

1. This form was designed by the State Auditor's Office to be used in the settlement of court assessments and fines. The form should be processed as follows:
 - (A) All assessments and applicable fines should be settled monthly.
 - (B) The form should show the total from each type of assessment and fine and the court making the assessment and/or fine.
 - (C) **One** check should accompany the settlement and be payable to "State Treasurer".
 - (D) The completed form and check should be mailed to:
Department of Finance and Administration
Office of Budget and Accounting
P. O. Box 267, Jackson, MS 39205

2. Questions regarding this form should be directed to:
Department of Finance and Administration 601-359-3402
State Auditor's Office 1-800-321-1275 or 601-576-2657

3. The assessment and fine codes shown on the form are defined as follows:
 - (1) SCEF - State Court Education Fund - SEC. 37-26-3
 - (2) TV - Traffic Violations - SEC. 99-19-73 (1)
 - (3) IC - Implied Consent Law Violations - SEC. 99-19-73 (2)
 - (4) GF - Game and Fish Law Violations - SEC. 99-19-73 (3)
 - (5) SL - Litter Law Violations - SEC. 99-19-73 (4)
 - (6) TT - Trauma Traffic - SEC. 99-19-73 (5)
 - (7) OM - Other Misdemeanors - SEC. 99-19-73 (6)
 - (8) OF - Other Felonies - SEC. 99-19-73 (7)
 - (9) ABF - Appearance Bond Fee - SEC. 83-39-31
 - (10) VBF - Victims Bond Fee - SEC. 83-39-31 (7)
 - (11) DVF - Domestic Violence Fund - SEC. 25-7-13
 - (12) CJF - Criminal Justice Fund - SEC. 97-19-67
 - (13) CC - Court Constituents Fund - SEC. 37-26-9
 - (14) DA - Drug Abuse/Drivers License Reinstatement - SEC. 63-1-71 / SEC. 63-11-30
 - (15) HV - Hunting Violation Fee - SEC. 49-7-21
 - (16) MVL - Compulsory Motor Vehicle Liability Insurance - SEC. 63-15-4
 - (17) ADT - Adult Driver Training - SEC. 63-9-11
 - (18) CTF - Mississippi Children's Trust Fund - SEC. 99-19-75
 - (19) CEC - Comprehensive Electronic Court Systems - SEC. 25-7-9 / 25-7-13
 - (20) CLA - Civil Legal Assistance Fund - SEC. 25-7-9 / 25-7-13
 - (21) ALA - Additional Littering Assessment - SEC. 97-15-29
 - (22) POF - Protective Order Form [Domestic Violence] - SEC. 93-21-7
 - (23) RCV - Railroad Crossing Violation - Sec. 99-19-73-(8) (a)
 - (24) DV - Drug Violation - Sec. 99-19-73-(8) (b)
 - (25) EXP - Expunge Assessment - **Sec. 99-19-72**

Department of Public Safety COURT ASSESSMENT SETTLEMENT FORM

SECTIONS 63-9-31 and 45-39-17

Name of County or Municipality _____

Month - - Year -

A	B Participant	C County or City Code	D Total Assessments Collected	E		F	
				FOR DPS USE ONLY			Total Participant Deposit
				Less 1% Administrative Fee			
WIRELESS COMMUNICATIONS ASSESSMENT -House Bill 1004							
LINE 1	MHP Title 63 Citations	900					
LINE 2	All Other Title 63 Citations						
CRIME STOPPERS ASSESSMENT-Senate Bill 2481							
LINE 3	Crime Stopper 45-39-17 Assessment						
LINE 4	TOTAL						

Report Submitted By: - - - -

Title of Submitter: - - - -

Address of County/City: - - - -

Telephone Number: - -

Fax Number: - -

INSTRUCTIONS FOR COMPLETION BY COURT CLERK:

The code for MHP is 900. This code is already inserted on Line 1, Column C.

1. Insert your county or municipal code on Line 2, Column C and on Line 3, Column C.
2. Counties enter total wireless communication assessments on MHP citations collected on Line 1, Column D.

NOTE: Cities will not normally have an amount here unless an MHP citation were for some reason adjudicated in city court.

3. Enter the total wireless communication assessments collected on all non-MHP citations on Line 2, Column D.
4. Enter the total crime stopper assessments collected on all citations on Line 3, Column D.
5. Total Column D on Line 4.
6. Columns E & F are for DPS use only.

JUSTICE COURT CLERKS SETTLE TO CHANCERY CLERK WITH COURT ASSESSMENT SETTLEMENT FORM

CHANCERY CLERKS AND MUNICIPAL CLERKS MAKE CHECKS PAYABLE TO "DPS FUND #3747.

Be sure to include a copy of Court Assessment Settlement Form with your check.

MAIL TO:

**Mississippi Department of Public Safety
Comptroller's Office**